

**FILED**

**FEB 19 2014**

Clerk, U.S. District Court  
District Of Montana  
Billings

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MONTANA  
BILLINGS DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

vs.

LARRY JOHN DAUENHAUER,

Defendant.

CR 11-06-BLG-SPW

SECOND AMENDED ORDER  
OF FORFEITURE

DANA MARIE DAUENHAUER and  
LARRY CHRISTOPHER  
DAUENHAUER,

Plaintiffs,

vs.

UNITED STATES OF AMERICA,

Defendant.

CV 14-10-BLG-SPW

WHEREAS, this Court having reviewed the Petitions for Remission, Mitigation and or to Restore Forfeited Real Property, filed by Larry Christopher Dauenhauer and Dana M. Dauenhauer, and further having reviewed the Answer of the United States to the Petitions for Remission, and the Settlement Agreement Between the United States and Claimants Dana Dauenhauer and Larry Christopher Dauenhauer filed herein (Doc. 183)(hereafter Settlement Agreement), hereby finds

good cause under Rule 60(b)(1) and (6), Fed.R.Civ.P., to modify the Amended Final Order of Forfeiture (Doc. 145) due to the failure of the United States to provide notice to other third party property owners as required under Rule 32.2, F.R.Crim.P.


AND WHEREAS, this Court finds therefore, that only Defendant Larry John Dauenhauer's one-third interest in the real property may be forfeited based on the October 14, 2011 jury finding of guilty on Count II of the Indictment which charged Defendant with knowingly possessing with intent to distribute over 500 grams of methamphetamine, a Schedule II controlled substance, in violation of 21 U.S.C. § 841(a)(1). Moreover, on October 14, 2011 the jury also returned a Special Verdict which found the following real property to be used or intended to be used to facilitate the crime set forth in Count II of the Indictment, namely the real property located at 1203 Lynn Avenue, Billings, MT, more particularly described as Sanderson Subdivision, Block 3, Lot 1, County of Yellowstone, Billings, MT.

AND WHEREAS, this Court finds the terms of the Settlement Agreement reasonable and appropriate and adopts those terms herein which include payment by Claimants to the U.S. Marshal a sum in the amount of \$16,500, which sum represents the Defendant Larry John Dauenhauer's one-third interest in the real property after deducting the priority lien and estimated costs of sale, with all

parties aware that the real property remains subject to the secured interest held by the Bank of America, and with all parties understanding that upon the payment of \$16,500 the real property shall remain in the titled ownership interest which it existed prior to the forfeiture.

ACCORDINGLY IT IS HEREBY ORDERED, ADJUDGED AND DECREED, that the \$16,500 paid to the U.S. Marshal pursuant to the Settlement Agreement approved herein, shall hereby be forfeited to the United States and shall be deposited forthwith by the United States Marshal into the Department of Justice Asset Forfeiture Fund in accordance with 28 U.S.C. § 524(c) and 21 U.S.C. § 853. The Clerk is hereby directed to send copies of this Order to all parties of record and three certified copies to the United States Marshal. Counsel for the United States shall file a release of the lis pendens and a copy of this Order with the Yellowstone County Clerk and Recorder.

DATED this 18th day of February, 2014.

  
SUSAN P. WATTERS  
United States District Judge